APPEAL NO. 031455
FILED JULY 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing (CCH) was held on May 8, 2003. The hearing officer determined that the respondent (claimant) on _____, sustained a compensable cervical disc herniation injury to the C5-6 level. The appellant (carrier) appeals the compensable injury determination, as well as asserting that the only issue in the case was compensability, and that the hearing officer went beyond her authority and decided an issue of extent of injury that was not properly before her. Additionally, the carrier appeals the hearing officer's decision to allow the claimant's health care provider to participate in the hearing as a subclaimant. The claimant and co-respondent (subclaimant) both urge affirmance.

DECISION

Affirmed.

Initially, we address the carrier's disagreement with Finding of Fact No. 1, which are stipulations agreed to by the parties concerning the claimant's employment status and that (city 1) was the proper venue for the CCH. Because of the nature of the carrier's request for review, we determined that the carrier actually disagrees with Finding of Fact No. 2, which concerns the extent of injury rather than the stipulations of employment status and proper venue.

The hearing officer found that the claimant sustained a compensable injury on _____. The hearing officer did not err in reaching the complained-of determination. The determination involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer determination is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986),

The carrier argues that the hearing officer erroneously found that the claimant's compensable injury was a cervical disc herniation injury to the C5-6 level. We note that the only issue reported out of the benefit review conference was compensability. There was no issue on extent of injury. We have encouraged hearing officers to indicate the nature of the injury when determining whether an injury existed. However, we have also stated that it is not appropriate for a hearing officer to make a final determination on the issue of extent of injury when the issue of extent of injury is not before the hearing officer. *See* Texas Workers' Compensation Commission Appeal No. 001239, decided

July 13, 2000, and Texas Workers' Compensation Commission Appeal No. 002898, decided January 29, 2001. As we have done in earlier cases, we consider the finding by the hearing officer concerning the extent of the claimant's injury to state the nature of the claimant's injury, but not to be a final determination of the extent of the claimant's injury.

The carrier appeals the hearing officer's ruling that the health care provider is a proper subclaimant. We have addressed this issue in the past and once again decide that the hearing officer did not err in determining that the health care provider is a proper subclaimant. *See* Texas Workers' Compensation Commission Appeal No. 002026, decided October 16, 2000.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Edward Vilano
Appeals Judge